

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN**

**1:15-cv-703
Gordon J Quist
U.S. District Judge**

Seth Miller

Plaintiff

CASE#

-v-

Financial Management Systems (FMS)

Defendant

COMPLAINT

Plaintiff, Seth Miller, hereby sues Defendant, Financial Management Systems for violations of the Telephone Consumer Protection Act (TCPA) Sec. 227., 47 USC § 227(b)(1), 47 USC § 227(a) (iii). Fair Debt Collection Practices Act (FDCPA) 15 U.S.C. § 1692g.

PRELIMINARY STATEMENT

1. This is an action for damages and injunctive relief brought by Plaintiff against Defendant for violations of the Telephone Consumer Protection Act (TCPA) Sec. 227., 47 USC § 227(b)(1), 47 USC § 227(a) (iii). Fair Debt Collection Practices Act (FDCPA) 15 U.S.C. § 1692d (5).

2. Plaintiff contends that the Defendant, FMS have violated such laws by repeatedly harassing Plaintiff in attempts to collect an alleged but nonexistent debt.

JURISDICTION AND VENUE

3. The jurisdiction of this Court is conferred by 15 U.S.C. §1681p, 15 U.S.C. §1692k and supplemental jurisdiction exists for the state law claims pursuant to 28 U.S.C. §1367.

4. Venue is proper pursuant to 28 U.S.C. §1391b. Venue in this District is proper in that the Plaintiff resides here, the Defendant transacts business here, and the conduct complained of occurred here.

PARTIES

5. Plaintiff, Seth Miller, is a natural person and is a resident of the State of Michigan.

6. Upon information and belief Defendant, FMS is a Foreign Entity, authorized to do business in Michigan.

FACTUAL ALLEGATIONS

7. Defendant placed constant and continuous calls to Plaintiff of an alleged debt.

8. Defendant placed collection calls to Plaintiff's cell phone number 616-773-8830 from telephone number 616-214-3186.

9. From October 20, 2014 thru November 27, 2014, FMS violated the TCPA by calling Plaintiff's cell phone 10 times with no prior permission given by Plaintiff.

**COUNT I
VIOLATIONS OF THE TELEPHONE
COMMUNICATIONS ACT 47 U.S.C. §227
BY DEFENDANT FMS**

10. Plaintiff alleges and incorporates the information in paragraphs 1 through 9.

11. Defendant FMS has committed 10 separate violations of 47 U.S.C. §227(b) (1) (A) and Plaintiff is entitled to damages of \$1500 per violation pursuant to 47 U.S.C. §227(b) (3) (B).

12. Plaintiff and FMS do not have an established business relationship within the meaning of 47 U.S.C. §227.

**COUNT II
VIOLATION OF FAIR DEBT COLLECTION
PRACTICES ACT (FDCPA), 15 U.S.C. §1692
BY DEFENDANT FMS**

13. Plaintiff alleges and incorporates the information in paragraphs 1 through 12.

14. Plaintiff is a consumer within the meaning of the FDCPA, 15 U.S.C. §1692a (3)

15. Defendant FMS is a debt collector within the meaning of the FDCPA, 15 U.S.C. §1692a (6).

16. Defendant violated the FDCPA. Defendant violated the following:

(a) Defendant violated 15 U.S.C. § 1692g, Failure to send the consumer a 30-day validation notice within 5 days of the initial communication.

**COUNT III
VIOLATION OF THE MICHIGAN FAIR DEBT
COLLECTION PRACTICES ACT 339.918 BY DEFENDANT
FMS**

17. Plaintiff alleges and incorporates the information in paragraphs 1 through 16.

18. Plaintiff is a consumer within the meaning of 339.301(f)

19. Defendant FMS is a collection agency within the meaning of 339.301(b)

20. Defendant violated 339.918(1) within 5 days after the initial communication with a

consumer in connection with a collection of a debt, a collection agency shall send the consumer, unless the following information is contained in the initial communication ~~or~~ the consumer has paid the debt, a written notice containing all of the following information:

- (a) The amount of the debt owed.
- (b) The date the communication was sent to the debtor.
- (c) The name of the creditor to whom the debt is owed.
- (d) A statement specifying that unless the consumer, within 30 days after receipt of this notice, disputes the validity of the debt, or a portion of the debt, the debt will be assumed to be valid.
- (e) A statement specifying that, if the consumer notifies the collection agency in writing within 30 days after receipt of this notice, that the debt, or any portion of the debt, is disputed, the collection agency shall obtain verification of the debt or a copy of a judgment against the consumer and that a copy of the verification or judgment shall be mailed to the consumer by the collection agency.

WHEREFORE, Plaintiff demands judgment against FMS for actual or statutory damages in the amount of \$14,000.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury of all issues so triable as a matter of law.

Respectfully submitted this 3 of July, 2015.

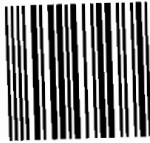


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